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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>04 June 2010</u>.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,4-16,18-25,27-34 and 36-38* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1,2,4-16,18-25,27-34 and 36-38* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All b)☐ Some * c)☐ None of:
        1.☐ Certified copies of the priority documents have been received.
        2.☐ Certified copies of the priority documents have been received in Application No. _____.
        3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Amendment

1.   Applicants' amendment filed on June 4, 2010 has been entered. Claims **1**, **23**,

and **24** have been emended. Claims 3, 17, 26, and 35 have been canceled. No claims

have been added. Claims 1-2, 4-16, 18-25, 27-34, and 36-38 are still pending in this

application, with claims **1**, 9, **23**, **24**, and 31 being independent.

2.   The text of those sections of Title 35, U.S. Code not included in this action can

be found in a prior Office action.

Claim Rejections - 35 USC § 112

3.   Claims 1, 23, and 24 are rejected under 35 U.S.C. 112, first paragraph, as failing

to comply with the written description requirement. The claim(s) contains subject matter

which was not described in the specification in such a way as to reasonably convey to

one skilled in the relevant art that the inventor(s), at the time the application was filed,

had possession of the claimed invention.

      Claims 1, 23, and 24 are amended with the new added features "- - - **a first call**

distribution process - - -", "- - - **a first call distribution logic** - - -", "- - - **a second**

default call distribution logic - - -", and "- - - **a second default logic** - - -". And these

features were not described in the instant application's original specification, original

claims and original figures. This is a new matter. The new matter must be cancelled.

4.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

5.   Claims 1, 23, and 24 are rejected under 35 U.S.C. § 112, second paragraph as

being vague and indefinite for failing to particularly point out and distinctly claim the

subject matter which applicant regards as the invention.

6.   Claims 1, 23, and 24 are amended to recite "- - - **a first call distribution**

process*", "- - - **a first call distribution logic** - - -", "- - - **a second default call**

distribution logic - - -", and "- - - **a second default logic** - - -". Therefore, it is unclear

that "a first call distribution process" is the same as "a first call distribution logic", and "a

second default call distribution logic" is the same as "a second default logic". Also it is

unclear about the difference between "call distribution process" and "call distribution

logic". Appropriate correction is required.

Claim Rejections - 35 USC § 103

7.   Claims 1-2, 4-8, and 23--30 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Borst et al. (U.S. Pat. No. 6,366,668 hereinafter "Borst") in view of

Hess (U.S. Pat. No. 5,835,696), and in view of Shtivelman (U.S. Pub. Number

2002/0054670 A1).

Note: In this rejection the "first call distribution process/first call distribution logic" is interpreted as "a call distribution process", and the "second default call distribution logic/second default logic" is interpreted as "a default call distribution process".

Regarding claims 1, 23, and 24, Borst teaches a method and a call routing system for use in directory assistance, said routing system (Figs. 1-11) comprising:

a primary call routing device (Fig. 1, Fig. 4, 110 Non-Central/Primary Automatic Call Distribution (ACD)) at a first call center (Fig. 9, 110 Non-Central/Primary ACD, 900 Sub-network/Sub-system) in the directory assistance system configured to receive directory assistance calls from callers and to determine using a first call distribution process/call distribution logic (Fig. 1, 103 Call Allocator, 102, Alternate Destination Call Redirection (ADCR), Fig. 2, Fig. 3, step 300 ACD Call Arrives, step 302 Route call to Destination ACD System, column 3 lines 37-39), for each of said calls, whether said calls will be handled by said first call center, or by a second call center (Fig. 9, 102 ADCR, 900-901 Sub-networks/Sub-systems) in said directory assistance system among a plurality of call centers (Fig. 9, 900-901 Sub-networks/Sub-systems) (Fig. 1, 110 Non-Central/Primary ACD, Fig. 2, column 3 lines 1-11, and lines 27-28, i.e., non-central or primary ACD 110, Fig. 4, Fig. 9, column 4, lines 29-45, i.e., a plurality of sub-networks/sub-systems each with its own ACD systems, wherein a sub-network/sub-system reads on a call center and an ACD reads on a call routing device/router);

a secondary router (Fig. 1, Fig. 4, 111 Central/Backup ACD) at said first call

center (Fig. 9, 111 Central/Backup ACD, 900 Sub-network/Sub-system) in said directory

assistance system, said secondary router (Fig. 1, Fig. 4, 111 Central/Backup ACD)

configured to initially route said calls within said first call center to said primary call

routing device (Fig. 4, 110 Non-Central/Primary ACD) and among said first call center

and said plurality of call centers (Fig. 9, 900-901 Sub-networks/Sub-systems) in said

directory assistance systems (Fig. 1, Figs. 3-4, Fig. 9, column 3, lines 12-57).

Borst further teaches wherein if said primary call routing device is busy (Fig. 3,

step 308 Return "Busy" to Routing Node), said secondary call router (Fig. 1, Fig. 4, 111

Central/Backup ACD) employs a second default call distribution logic/default logic to

route said calls (Fig. 1, Figs. 3-4, Fig. 9, column 3, lines 12-57). However, Borst might

not clearly disclose in detail a system that when a primary router is off-line then a

secondary router will be used as a secondary routing system, although Borst teaches to

detect when a primary call routing device is busy, and this fault tolerant or redundancy

or back-up (i.e., off-line) feature is old and well known in the art as described below in

one of many class 379 references.

Since, Borst <u>teaches an apparatus comprising a primary call routing device</u> (Fig.

1, Fig. 4, 110 Non-Central/Primary Automatic Call Distribution (ACD)) <u>and a secondary</u>

<u>call router</u> (Fig. 1, Fig. 4, 111 Central/Backup ACD) <u>that is **a known device** for routing</u>

<u>the calls among a call center and a plurality of call centers</u> (Fig. 1, Figs. 3-4, Fig. 9,

column 3, lines 12-57) which <u>the claimed invention can be seen as an **improvement**</u> in

that if a primary call routing is off-line, a secondary router employs a second default call

distribution logic to route the calls. <u>In 1995, Hess contains **a known technique** to</u>

<u>detect when a primary call routing is off-line then a secondary router employs a second</u>

<u>default call distribution process/logic to route the calls</u> (see Hess – Fig. 1, Fig. 2, 10-1

Router, 10-2 Router, Figs. 3-4, column 3 lines 6-12, wherein the router develops a fault

and is no longer operating properly reads on "a primary call routing is off-line").

<u>Shtivelman contains **a known technique** to determine, for each of said calls, whether</u>

<u>said calls will be handled by said first directory assistance system</u> (see Shtivelman - Fig.

1, 15 Call Center), <u>or by a second directory assistance system</u> (See Shtivelman - Fig. 1,

13 Call Center) (see Shtivelman - Fig.1, paragraph hereinafter "par" [0031] lines 3-8,

i.e., calls are routed according to programmable rules). And, <u>Hess and Shtivelman's</u>

<u>**known techniques**</u> would have been recognized by on skill in the art as **<u>applicable to</u>**

<u>the known device</u> of Borst and the **<u>results would have been predictable</u>** and resulted

in an apparatus comprising a primary call routing device and a secondary call router

wherein if a primary call routing device is off-line then a secondary call router employs a

second default call distribution logic to route the calls among a call center and a plurality

of call centers which results in an improved apparatus.

And thus adding the features as described above is to <u>apply a known technique</u>

<u>to a known device ready for improvement to yield predictable results</u> (see KSR – MPEP

2143). Therefore, the claimed subject matter would have been obvious to a person

having ordinary skill in the art at the time the invention was made.

Regarding claims 2 and 25, Borst teaches a method and a call routing system,
wherein said secondary router is configured to determine the online/off-line status of
said primary call routing device (Figs. 1-11, column 3, lines 46-55, i.e., a rejection signal
(e.g., a "busy" signal) triggers the Alternate Destination Call Redirection (ADCR)
feature).

Regarding claims 4 and 27-29, Borst a transfer router (Fig. 1, Fig. 9, 102 ADCR,
900-901 Sub-networks/Sub-systems), said transfer router configured to transfer calls
between said first call center (Fig. 1, Fig. 9, 900) and a second call center (Fig. 1, Fig. 9,
901) in said directory assistance system via a Wide Area Network (WAN), the Internet,
and/or a packet switched network (Fig. 1, Fig. 9, 100 PSTN, column 2, lines 54-60, i.e.,
interconnected (networked) via the public switched telephone network (PSTN), the
Internet, or some other communications network, and column 4, lines 29-40).

Regarding claims 5-6 and 30, Borst discloses everything claimed as applied
above (see claims 1, 4, and 24 above). Shtivelman teaches a method and a call routing
system, wherein said primary call routing device routes a portion of said plurality of said
incoming calls to said second call center when said first call center in said directory
assistance system is experiencing high call volume and/or offline (Figs 1-2, par [0048],
i.e., calls are diverted when call volume is exceeded a preset threshold "offline", and par
[0050]).

Regarding claims 7-8, Borst discloses everything claimed as applied above (see

claims 1 and 4 above). And, Shtivelman teaches a call routing system, further

comprising an automatic call distribution call center, configured to receive a portion of

said is plurality of calls from said secondary router and distribute them among a plurality

of operator terminals disposed within said first call center in said directory assistance

system, and where in said second call center in said directory assistance system further

comprises a second automatic call distribution call center configured to receive a portion

of said plurality of calls from said secondary router and distribute them among a plurality

of operator terminals disposed within said second call center (Fig. 1, par [0050], i.e., call

center 13, call center 15 and other call centers may only have a certain percentage of

incoming calls).

Claim Rejections - 35 USC § 103

8.   Claims 9-16, 18-22, 31-34, and 36-38 are rejected under 35 U.S.C. 103(a) as

being unpatentable over Borst in view of Shtivelman, and in view of Foladare et al. (U.S.

Patent Number 5,978,671 hereinafter "Foladare").

Regarding claims 9 and 31, Borst teaches a method and a call routing system for

use in directory assistance, said routing system (Figs. 1-11) comprising:

a primary call routing device (Fig. 1, Fig. 4, 110 Non-Central/Primary Automatic

Call Distribution (ACD)) at a first call center (Fig. 9, 110 Non-Central/Primary ACD, 900

Sub-network/Sub-system) in the directory assistance system configured to receive

directory assistance calls from callers (Fig. 1, 110 Non-Central/Primary ACD, Fig. 2,

column 3 lines 1-11, and lines 27-28, i.e., non-central or primary ACD 110, Fig. 4, Fig.

9, column 4, lines 29-45, i.e., a plurality of sub-networks/sub-systems each with its own

ACD systems, wherein a sub-network/sub-system reads on a call center and an ACD

reads on a call routing device/router).

     Borst discloses and apparatus comprises a primary call routing device (Fig. 1,

Fig. 4, 110 Non-Central/Primary Automatic Call Distribution (ACD)) and a routing

module (Fig. 1, 103 Call Allocator, 102, Alternate Destination Call Redirection (ADCR))

that is **a known device** to redirect a desired predefined percentage of calls from a

primary system to a backup "secondary" system (Figs. 1-11, column 3 lines 26-29,

wherein a small percentage of calls of this type reads on "a desired predefined

percentage") which the claimed invention can be seen as **an improvement** in that the

added well known features (as described below in two of many class 379 references)

comprising a frequent caller routing module, a frequent caller database, configured to

store information corresponding to frequent callers, and a desired predefined

percentage of calls of the total number of calls to the directory assistance system as

priority calls. Foladare contains **known technique** to provide frequent call routing by

detecting repeat or frequent caller and accessing/updating a frequent caller database

(See Foladare – Fig. 1, 55 Database, Fig. 2, 115 Obtain Caller Identity Information, 120

Repeat Caller?, 125 Retrieve Alphanumeric Identifier, 130 Update Database with Caller

Identify Information, column 2 lines 27-48, column 5 lines 52-55, and column 6 lines 41-

44). Shtivelman contains **known technique** to determine where each of the calls will

be handled (see Shtivelman - Fig. 1, 13 Call Center ,15 Call Center, paragraph [0031]

lines 3-8, i.e., calls are routed according to programmable rules), a frequent caller

routing module (see Shtivelman - Fig. 1, 21 IVR, Fig. 2, 113 CTI Processor, 115 IVR)

coupled to said primary call routing device (see Shtivelman - Fig. 147 Processor, 51

Switch, Fig. 2, 103 Switching Apparatus) and a desired predefined percentage of calls

of the total number of calls to the directory assistance system as priority calls (see

Shtivelman - Fig. 1, 15 Call Center, Fig. 2, Fig. 3, step 87 Determine if caller has

priority, paragraph [0037] lines 13-15, i.e., diverting calls at a selected percentage of the

total incoming calls destined to call center 15, paragraph [0038] lines 13-16, i.e., calls

are selectively routed to a call center if found to be important calls, and paragraph

[0041], i.e., percentage parameters regarding call mix, i.e., ratio of priority calls to

routine calls). Foladare and Shtivelman's **known techniques** would have been

recognized by on skill in the art as **applicable to the known device** of Borst and the

results would have been predictable and resulted in a call routing apparatus

comprising frequent caller database, configured to store information corresponding to

frequent callers, and a desired predefined percentage of calls of the total number of

calls to the directory assistance system as priority calls which results in an improved

apparatus. And thus adding the features as described above is to apply a known

technique to a known device ready for improvement to yield predictable results (see

KSR – MPEP 2143). Therefore, the claimed subject matter would have been obvious to

a person having ordinary skill in the art at the time the invention was made.

Regarding claims 10-11, Borst discloses everything claimed as applied above

(see claim 9 above). Shtivelman teaches the call routing system (Figs. 1-3), wherein

said frequent call routing module is located within said primary call routing device, and

wherein said frequent call routing module is a software application within said primary

call routing device (Figs. 1-3, par [0059] lines 5-8).

Regarding claims 12-16 and 32-34, Borst discloses everything claimed as

applied above (see claims 9 and 31 above). Shtivelman teaches the call routing system

(Fig. 1), wherein said frequent call routing module is configured to convey the priority

call routing decision to said primary call routing device to perform routing of said call,

wherein said information corresponding to frequent callers includes a listing of frequent

callers to said directory assistance system and the corresponding frequency of their

calls (Figs. 1-3, par [0013], and par [0031] lines 9-14), wherein said frequency of calls

made to said directory assistance system are stored as calls per month, wherein said

information corresponding to frequent callers includes a listing of frequent callers to said

directory assistance system are stored in one of a plurality of designated call frequency

groups, and wherein said frequent caller routing module makes priority routing decisions

for incoming calls based on said call frequency group assigned to said caller, in the

caller database (Figs. 1-2, par [0034], and par [0040], i.e., call frequency groups such

as emergency workers, certain authorities).

And Foladare teaches a frequent caller database (see Foladare – Figs. 1-2,

column 2, lines 27-48) and store the frequency of calls made (see Foladare – Figs. 1-2,

column 6, lines 41-44, i.e., number of times a caller has called is maintained in the database).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide Borst with the above teachings from Shtivelman and Foladare.

Regarding claims 18-19 and 36, Borst discloses everything claimed as applied above (see claims 9 and 31 above). Borst further teaches a frequent caller routing module (Fig. 1, 103 Call Allocator, 102, Alternate Destination Call Redirection (ADCR)), attempts to designate a desired predefined percentage of calls of the total numbers of calls to said directory assistance system (Figs. 1-11, Abstract, column 1 lines 53-54, and column 5 lines 25-30, i.e., distributes calls to a plurality of ACD systems on a fixed percentage). Shtivelman teaches the call routing system, wherein said desired percentage of calls is 3-5% of the total call volume to said directory assistance, and wherein said frequent caller routing module dynamically adjusts priority routing decisions for incoming calls by changing said call frequency groups that are designated for priority routing so as to maintain said predefined percentage of calls of the total numbers of calls to said directory assistance system, routed as priority calls (Fig. 1, 15, 16, 19, 21, par [0038], i.e., selection of a percentage of callers for diversion, and par [0040]).

Regarding claims 20-22 and 37-38, Borst discloses everything claimed as applied above (see claims 9 and 31 above). Shtivelman teaches the call routing system, wherein said priority call routing includes expediting the handling of said call within said directory assistance system (Fig. 1, 16, 19, 21, par [0042] lines 5-6, i.e., callers have correct code/password would be immediately routed), wherein said priority call routing includes routing said call within said directory assistance system to a particular operator terminal among a plurality of operator terminals, and wherein said particular operator terminal is an increased skill operator (par [0042] lines 12-15, i.e., routed to appropriate services).

Response to Arguments

9.   Applicants' arguments with respect to the amended independent claims 1, 23, 24 and their dependent claims 2, 4-8, and 25-30 have been considered but are moot in view of the new ground(s) of rejection.

10.   Applicants' arguments with respect to the independent claims 9, 31, and their dependent claims 10-16, 18-22, 32-34, and 36-38 have been fully considered but they are not persuasive.

Regarding claim 9, Applicants argue that Borst teaches a basic load distribution where all calls are distributed on fixed percentage to various call centers, and this is the

opposite of "- - - predefined percentage of calls of the total numbers of calls to said

directory assistance system - - -" (see Applicants' Remarks page 18 lines 2-14).

In response to the Applicants' arguments, the Examiner respectfully disagrees for

the following reasons: First, Borst clearly discloses to redirect a small percentage of

calls of each call type from the primary ACD to the backup ACD (see Borst – Figs. 1-2,

column 3 lines 26-29), and thus it is not all calls are distributed on fixed percentage to

various call centers but to designate a desired predefined percentage of calls of the total

numbers of calls from a primary ACD to a backup ACD. Second, as shown in the

rejection above, Shtivelman discloses to diverting calls at <u>a selected percentage of the</u>

<u>total incoming calls destined to a call center</u> (see Shtivelman - Fig. 1, 15 Call Center,

Fig. 2, Fig. 3, step 87 Determine if caller has priority, paragraph [0037] lines 13-15) and

calls are selectively routed to a call center if found to be important calls (see Shtivelman

– Figs. 1-3, Fig. 3, paragraph [0038] lines 13-16), and a percentage parameters

regarding call mix, i.e., ratio of priority calls to routine calls (see Shtivelman - paragraph

[0041]).

Applicants also argue that Shtivelman does not teach or suggest "- - - designated

desired predefined percentage of calls at all of the total numbers of calls to the directory

assistance system as priority calls." (see Applicants' Remarks page 19 lines 9-10).

The Examiner respectfully disagrees. As shown above, Shtivelman clearly

discloses to diverting calls at <u>a selected percentage of the total incoming calls destined</u>

<u>to a call center</u> (see Shtivelman - Fig. 1, 15 Call Center, Fig. 2, Fig. 3, step 87

Determine if caller has priority, paragraph [0037] lines 13-15) and <u>calls are selectively routed to a call center if found to be important calls</u> (see Shtivelman – Figs. 1-3, Fig. 3, paragraph [0038] lines 13-16), and <u>a percentage parameters regarding call mix, i.e., ratio of priority calls to routine calls</u> (see Shtivelman - paragraph [0041]).

And, Applicants argue that "The only designated calls as priority calls in Shtivelman are those from authorized emergency personal (or others with such codes). These calls can not be a predetermined percentage as their quantity can not be known in advance." (see Applicants' Remarks page 19 lines 11-13).

Again, the Examiner respectfully disagrees with the Applicants' argument. Since the claims do not specify any definition of the words "priority calls" or limitations of what and how, to one of ordinary skill in the art, it is interpreted as any call can be a priority call, and thus these calls can not be a predetermined percentage as their quantity can not be known in advance. Contrary to the Applicants broad claim's language, <u>Shtivelman clearly discloses a percentage parameter regarding call mix such as a ratio of priority calls to routine calls that based on historical statistics regarding system performance during previous emergencies</u>, etc., and this information then be used in setting or changing the routing rules (see Shtivelman - paragraphs [0039]-[0041]).

And thus, for the reasons set forth above Borst, Shtivelman, and Foladare disclose all the claimed limitations. Therefore, the rejection under 35 U.S.C. 103(a) of claims 9, 31, and their dependent claims 10-16, 18-22, 32-34, and 36-38 is proper and maintainable.

In addition, the Examiner would like to emphasize for the record that the claims'

language is broad. In addition, the Applicants have not argued any narrower

interpretation of the claim limitations, nor amended the claims significantly enough to

construe a narrower meaning to the limitations.

Since the claims breadth allows multiple interpretations and meanings, which are

broader than Applicants' disclosure, the Examiner is <u>required</u> to interpret the claim

limitations in terms of their broadest reasonable interpretations while determining

patentability of the disclosed invention. <u>See</u> MPEP 2111.

In other words, the claims must be given their broadest reasonable interpretation

consistent with the specification and the interpretation that those skilled in the art would

reach. See *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000),

In re Cortright, 165 F.3d 1353, 1359, 49 USPQ2d 1464, 1468 (Fed. Cir. 1999), and *In re*

American Academy of Science Tech Center, 2004 WL 1067528 (Fed. Cir. May 13,

2004).

Any term that is not clearly defined in the specification must be given its plain

meaning as understood by one of ordinary skill in the art. See MPEP 2111.01. See also

In re Zletz, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989), *Sunrace Roots*

Enter Co. v. SRAM Corp., 336 F.3d 1298, 1302, 67 USPQ2d 1438, 1441 (Fed. Cir.

2003), *Brookhill- Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298 67 USPQ2d

1132, 1136 (Fed. Cir.2003).

The interpretation of the claims by their broadest reasonable interpretation

reduces the possibility that, once the claims are issued, the claims are interpreted more

broadly than justified. See *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-551 (CCPA 1969). Also, limitations appearing in the specification but not recited in the claim are not read into the claim. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir.1993).

Therefore, the failure to significantly narrow definition or scope of the claims and supply arguments commensurate in scope with the claims implies the Applicants intend broad interpretation be given to the claims. The Examiner has interpreted the claims broadly and reiterates the need for the Applicants to distinctly define the claimed invention.

Conclusion

11.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KHAI N. NGUYEN whose telephone number is

(571)270-3141. The examiner can normally be reached on Monday - Thursday 6:30AM
- 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's
supervisor, Ahmad F. Matar can be reached on (571) 272-7488. The fax phone number
for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the
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system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/K. N. N./
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08/09/2010

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